

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 105 OF 2020

Bharat @ Pintu Tukaram Sonawane
Aged about 24 years, Indian
Inhabitant Occ: Nil, residing at Indira
Nagar, Bawada, Tal, Indapur, Dist. Pune.
Presently lodged at Yerwada Jail.

...APPELLANT

Versus

1. State of Maharashtra
Through Inspector Incharge
Indapur Police Station.
2. Shri. Vilas Kisan Nale
Adult, Indian Inhabitant,
Occ- Assistant Police Inspector
Indapur, Police Station, Dist. Indapur.
3. Ramakant Hari Torne
Age- 75 Years,
R/at. Bawada, Tal, Indapur, Dist. Pune.

...RESPONDENTS

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Mr. Vaibhav V. Ugle, appointed through Legal Aid for appellant.

Dr. F.R. Shaikh, APP for State.

Mr. Shriram S. Chaudhari for respondent no. 3.

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**CORAM : S. S. SHINDE &
MANISH PITALE, JJ.**

**RESERVED ON – 17th FEBRUARY, 2021.
PRONOUNCED ON- 23rd FEBRUARY, 2021.**

JUDGMENT [PER S.S. SHINDE, J.]:

. This appeal is filed taking an exception to the order below Exhibit- 85 in Sessions Case No. 23/2016 pending before the Court of Sessions, Baramati, Dist. Pune. By impugned order the prayer of the appellant to release him on regular parole bail has been rejected.

2. Learned counsel for the appellant submits that the appellant is lodged in jail since his arrest. He further submits that the entire prosecution case rests upon circumstantial evidence. The dead body has been recovered after a lapse of considerable period from the date of alleged killing of victim Rasmikant Rajnikant Torne. It is submitted that this Court (Coram:- B.R. Gavai & Sarang V. Kotwal, JJ.) on 07th June 2018 released the co-accused on bail, therefore, on the ground of parity the appellant deserves to be released on bail. It is submitted that there is no possibility of commencement of trial in the near future, and therefore, on merits as well as on the ground of parity the appellant deserves to be released on bail.

3. On the other hand, learned APP appearing for Respondent-State would urge that the appellant is the main accused, an incriminating material has been recovered at his instance which would connect him with the

commission of offence. Therefore, his case cannot be compared with the co-accused. There is possibility of tampering with the prosecution witnesses and evidence, in case the appellant is released on bail.

4. We have given careful consideration to the rival submissions. With the able assistance of learned counsel for the appellant and learned APP for State, perused the grounds taken in the appeal memo, annexures thereto and impugned order passed by the Sessions Court, Baramati, Dist. Pune. It is true that the case is based upon circumstantial evidence, however, the appellant appears to be mastermind of the planning the murder and actual incident. As rightly submitted by the learned APP an incriminating material has been recovered at the instance of the appellant. Dead body of Rasmikant Rajnikant Torne has been recovered pursuant to the memorandum statement of the accused. It appears from the evidence on record that the victim was killed and thereafter his dead body was buried. The instruments used in causing disappearance of dead body have been recovered from the possession of appellant. As already observed from the memorandum statement of the appellant, whereabouts of dead body have been discovered which directly connects the appellant with the alleged offence. As rightly submitted by the learned APP, in case the appellant is released on bail, there is every possibility of tampering with the prosecution witnesses and evidence. It

prima facie appears that an alleged incident is planned and designed to kill victim Rasmikant Rajnikant Torne. In that view of the matter, we are unable to persuade ourselves to accede to the prayer of the appellant to release him on bail. Hence, the appeal stands dismissed.

5. The Sessions Court, Baramati, Dist. Pune is directed to expedite the trial including framing of charge, if already not framed, as expeditiously as possible, however, within one year from receipt of the copy of this order.

6. The observations made herein above are *prima facie* in nature and confined to the adjudication of the present appeal only. The Trial Court shall not get influenced by the aforesaid observations during the course of trial.

7. We appreciate the able assistance rendered by Advocate Mr. Vaibhav Ugle, appointed for representing the appellant. We quantify his fees at Rs. 7500/- to be paid by High Court Legal Services Committee, Mumbai, within four weeks from the receipt of copy of this order.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)